

**Town of Milford
Zoning Board of Adjustment Minutes
November 17, 2011
Michael Salzman
Case #23-11
Special Exception**

Present: Kevin Johnson, Chairman
Fletcher Seagroves
Steven Winder

Absent: Laura Horning
Steve Bonczar
Zach Tripp – Alternate
Michael Unsworth – Alternate
Len Harten – Alternate

Secretary: Peg Ouellette

The applicant, Michael Salzman, owner of 165 Federal Hill Rd, Map 53, Lot 11 in the Residence “R” district, is requesting a Special Exception from Article V, Section 5.04.2:A.7 to construct a garage twenty-eight (28’) ft +/- from the front property line.

The minutes of case #23-11 were approved on April 05, 2012.

Kevin Johnson, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He continued by informing all of the procedures of the Board; he then read the notice of hearing into the record as well as the list of abutters; Michael Salzman, applicant, was present. No abutters were present.

K. Johnson informed the applicant that there are three members of the Board present and the applicant has the right to be heard by a full five-member Board. If the applicant chose to be heard by a three-member Board, three affirmative votes would still be required for approval of the variance. The applicant may choose to have the application tabled, or be heard by the three-member Board. If the applicant chose to be heard by the three-member Board, a waiver must be signed. The applicant asked, if he is denied, whether he can then come back again. K. Johnson said he cannot; if the applicant signs the waiver and the request is denied, that denial cannot be used as a reason to request a rehearing. The applicant inquired, if he is denied, is he entitled to change his plan? K. Johnson said yes, he is entitled; however, that is an entirely new plan and it would be necessary to go through the entire process, i.e. application to the Town, sending of new notice to the public, etc. The applicant chose to have the hearing heard by three members of the Board and signed the waiver.

K. Johnson then invited the applicant forward to present his case.

Applicant, using the picture in the packet, stated his house sits fairly close to the road and there are two garage doors facing a driver pulling into the driveway. He wants to extend the house out directly where the house is, and in doing so the left corner of the house will infringe on the setback.

K. Johnson said, to clarify, that the applicant is bringing the existing side of the house forward?

Applicant said yes.

K. Johnson asked for any questions from the Board. There were none.

At this point, the meeting would normally be opened for public comment, but there being no others present, K. Johnson closed the public comment portion of the meeting. There were no other e-mails or correspondence received regarding this case.

K. Johnson asked the applicant to read his application into the record.

The applicant read his application: *The undersigned hereby requests a special exception as specified in the Milford Zoning Ordinance, Article V, Section 5.04.2:A:7.*

Description of proposed use: Construct garage and entrance to house 28' from front property line. (applicant added that the front of the garage and house will be roughly 28' from the front property line)

Facts supporting this request:

1. The proposed use shall be similar to those permitted in the district: House already is infringing on the 30-foot setback from the road. Keeping current residential use.

2. The specific site is an appropriate location for the proposed use because: Currently is a garage. I am just extending it and it is residential use in residential area. Location is most appropriate and cannot be put within the setback due to septic tank location.

3. The use as developed will not adversely affect the adjacent area because: it is currently my driveway. There is no adverse affect.

4. There will be no nuisance or serious hazard to vehicles or pedestrians: garage is on private property.

5. Adequate appropriate facilities will be provided for the proper construction of the proposed use because: it will be built to code.

K. Johnson read the Milford Zoning Ordinance Article V, Section 5.04.2 *Acceptable Uses and Yard Requirements by: (2009) A. Special Exception*. Section A7 allows for *Reduced front, side and rear setbacks (2001)*. In addition, he read from Section 10.02.1 which specifies five criteria which must be met for a Special Exception to be granted: *A. The proposed use shall be similar to those permitted in the district; B The specific site is an appropriate location for the proposed use; C. The use as developed will not adversely affect the adjacent area; D. There will be no nuisance or serious hazard to vehicles or pedestrians; E. Adequate appropriate facilities will be provided for the proper operation of the proposed use.*

The Board Members discussed the five criteria.

A. The proposed use shall be similar to those permitted in the district;

S. Winder agreed it is similar; it is a house and garage and is not infringing too far into the setback.

F. Seagroves said it is allowable to reduce the setback.

K. Johnson said it is permitted by the ordinance.

B. The specific site is an appropriate location for the proposed use;

S. Winder said it is the most appropriate based on the map the applicant provided and description of the property.

F. Seagroves said with the location of the septic system and the house he didn't see any other location for the garage.

K. Johnson said he felt it was an appropriate site; looking at the aerial photos and construction diagram provided it was the only location that made sense as it cannot be shifted one way or the other because of the existing structure and septic system.

C. The use as developed will not adversely affect the adjacent area;

S. Winder said it is only infringing two feet into the setback and he saw no other issues with the proposed location.

F. Seagroves said he did not see any adverse affect, since it appears it can't be seen from the road.

(applicant stated it will not look any different from the road)

K. Johnson said this was an addition to a residential use in a residential area

D. There will be no nuisance or serious hazard to vehicles or pedestrians;

S. Winder said it is a rural road; it is not infringing on traffic or anyone's path.

F. Seagroves said there was no hazard; it is private property.

K. Johnson said the extension of the house line into the garage area would still be set far enough back that it will not interrupt the sight line for the roadway; even with vehicles in the driveway he did not believe there would be any hazard to traffic on the roadway; since this is a rural area there is no worry about pedestrians.

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use.

S. Winder said it is proper property for a garage.

F. Seagroves said the applicant stated it will be built to code.

K. Johnson said it is a building that is permitted by the Town which will be inspected by the Town and they trust the town to provide for appropriate facilities and proper operation.

K. Johnson called for a vote.

After reviewing the petition and after hearing all of the evidence and by taking into consideration the personal knowledge of the property in question, this Board of Adjustment member has determined the following findings of fact:

Is the exception allowed by the Ordinance?

Fletcher Seagroves – yes; Steve Winder – yes; K. Johnson – yes.

Are the specific conditions present under which the Special Exception may be granted?

S. Winder – yes; F. Seagroves – yes; K. Johnson – yes.

K. Johnson requested a motion to approve.

S. Winder made a motion to approve.

F. Seagroves seconded the motion.

Final Vote:

S. Winder – yes, F. Seagroves – yes, K. Johnson – yes

Case # 23-11 was unanimously approved. K. Johnson reminded the applicant of the 30-day appeal period. Applicant inquired whether he can do anything before the thirty days. He was told he would be risking that if someone requested a rehearing and the rehearing were granted, if the rehearing went against him, he might have to remove what had been done. It was suggested that he speak with the Building Department.